

Liquor Control Board  
**Wine and Beer**  
**Three-Tier System Review**  
**Task Force**

August 3, 2006 - Meeting #4



# Welcome!



- **Introductions**

# Agenda



	Topic	Purpose	Time	Outcome	Lead by
1.	Welcome / Introductions / Agenda / Previous meeting minutes	Information	10 minutes (10:00-10:10)	Information	Nate Ford (Task Force Chair)
2.	<i>Summary</i> : previous meeting decisions	Review	10 minutes (10:10-10:20)	Information	Sterling Associates
3.	<i>Presentation</i> : primary issues from Independent Grocers (rescheduled from Meeting #3)	Information	10 minutes (10:20-10:30)	Information	Bob Broderick
4.	<i>Review and discuss</i> : Preamble language regarding economic impact of changes to the distribution and sale of beer and wine	Decision	10 minutes (10:30-10:40)	Decision on preamble language	Sterling Associates
5.	<i>Discussion and selection of recommendations</i> : CONTROL AND ENFORCEMENT CATEGORY: LCB's role in the retail sale of beer and wine	Decision	80 minutes (10:40-12:00)	Decision on recommended changes, if any, to the LCB's role	Sterling Associates
	Lunch		12:00 – 12:45		
6.	<i>Presentation and Discussion</i> : SALES AND DISTRIBUTION CATEGORY: LCB's regulatory approach	Information	45 minutes (12:45-1:30)	Information	Sterling Associates
7.	<i>Discussion and selection of recommendations</i> : Price Posting and Price Hold Regulations	Decision	60 minutes (1:30-2:30)	Decision on recommended changes, if any, to Post and Hold regulations	Sterling Associates
8.	<i>Overview of next meeting, Wrap up-adjourn</i>		15 minutes (2:30 – 2:45)		Sterling Associates

# Previous Meeting



- **Received stakeholder presentations**
- **Motion to add preamble to policy goals**  
*(tabled until specific language is drafted)*
- **Prioritized potential change items**
- **Adopted three categories to be used to frame future task force deliberations**
  - Control and Enforcement
  - Sales and Distribution
  - Relationship Among the Tiers

# Next Steps



- **September 14, Meeting 5:**
  - Relationship Among the Tiers Category
    - Mandatory Use of Distributors
    - 2SSB 6823 Impacts (crosses over with priority change item “lack of impact measures”)
- **September 28, Meeting 6:**
  - Wrap up remaining discussion regarding issues previously discussed
  - If time permits, consider additional priority items
- **October 12, Meeting 7:**
  - Review draft report
- **November 16, Meeting 8:**
  - Presentation of final draft report

## Since June 15 meeting



- Preamble language drafted
- Potential change item prioritization was completed, and items categorized
- Issue papers prepared and distributed for review on the highest priority items in the first two categories
- Stakeholder comments received and forwarded

# Task Force Charge and Charter



## *Chapter 302, Laws of 2006 (2SSB 6823)*

NEW SECTION. **Sec. 13.** The liquor control board shall convene a task force to conduct a comprehensive review of the current regulatory system controlling the sale and distribution of beer and wine in Washington state. The board shall include stakeholders representing the producers, distributors, consumers, retailers, carriers, and legislators in conducting its review.

The task force shall review the genesis of the current regulatory system and whether the system in its current configuration should continue.

It shall identify key issues, concerns, and desired changes by stakeholders about the current system and shall identify alternatives or modifications to the current system.

The task force shall also research and analyze the impacts and implications of this act, and other suggested modifications to the system on distributors, producers, retailers, and consumers.

The task force shall make recommendations about any proposed changes to the system by December 15, 2006.

# Task Force Charge and Charter



## Excerpt from the Task Force Charter:

The Task Force will focus on four key questions:

- ✓ Are the state's current alcohol sales/distribution policy goals still relevant and appropriate today?

*Policy goals reviewed and adopted for recommendation*

- ✓ What are the current controls and structure for meeting the policy goals related to beer and wine, and are they effective?

*Strengths and weaknesses of current system identified through interviews and focus groups*



# Task Force Charge and Charter



## Excerpt from the Task Force Charter:

The Task Force will focus on four key questions:

- Is there evidence that the current controls and/or structure significantly impact industry businesses, consumers, society and/or the state?

*Anecdotal evidence gathered through interviews, focus groups. Additional data is being reviewed through issue papers.*

- What alternative controls and/or structure are available to meet the state's relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state?

*Task Force is currently considering alternatives (including “no change”)*

## Success

This review will be successful when these questions are answered, and members of the Task Force provide specific recommendations for improvements, if needed.

# Objective of Today's Meeting



- **Determine Task Force recommendations on two priority items**
- **Complete stakeholder presentation**
  - *Bob Broderick, representing Independent Grocers*

# Tabled Motion regarding Economic Impacts



- **[Language to be provided by Tim Hightower]**

# Prioritization Results



Control and enforcement.						
7b	LCB in Competition	9	10	4	0	5.75
6d	Lack of Enforcement Resources	18	2	2	-3	4.75
6f	Lack of Impact Measures	18	2	1	-6	3.75
6a	Criteria for regulations	9	8	3	-6	3.5
7a	Rules for LCB retailing	3	8	4	-3	3
6c	Priority of Enforcement Resources	9	4	2	-6	2.25
6g	Complexity of rules	3	2	4	-6	0.75
6e	Paperwork	0	6	4	-9	0.25
Sales and distribution						
4b	Price Posting	24	0	2	-9	4.25
4c	Mandatory Mark-up	9	10	1	-6	3.5
4d	Quantity Discounts	15	8	0	-15	2
5f	Central Warehousing	3	12	2	-9	2
Relationship among tiers						
5a	Mandatory Use of Distributors	18	6	2	-12	3.5
3a	Money's Worth	12	6	3	-12	2.25
3b	Ownership	9	4	2	-12	0.75

Today we will discuss the top priority items in the first two categories.

# Prioritization Results



## Control and enforcement.

7b	LCB in Competition	9	10	4	0	5.75
6d	Lack of Enforcement Resources	18	2	2	-3	4.75
6f	Lack of Impact Measures	18	2	1	-6	3.75
6a	Criteria for regulations	9	8	3	-6	3.5
7a	Rules for LCB retailing	3	8	4	-3	3
6c	Priority of Enforcement Resources	9	4	2	-6	2.25
6g	Complexity of rules	3	2	4	-6	0.75
6e	Paperwork	0	6	4	-9	0.25

## Sales and distribution

4b	Price Posting	24	0	2	-9	4.25
4c	Mandatory Mark-up	9	10	1	-6	3.5
4d	Quantity Discounts	15	8	0	-15	2
5f	Central Warehousing	3	12	2	-9	2

## Relationship among tiers

5a	Mandatory Use of Distributors	18	6	2	-12	3.5
3a	Money's Worth	12	6	3	-12	2.25
3b	Ownership	9	4	2	-12	0.75

The September 14 meeting will focus on the top priority in the third category...

... and the impacts of 2SSB 6823



# LCB Retailing of Wine and Beer



## Issue Statement:

**Some retailers believe the LCB has an unfair pricing advantage because it is not required to follow the same set of regulations for wine and beer sales as private retailers.**

- Does the LCB sell wine and beer at an unfair price advantage in state stores?
- Should the regulations pertaining to wine sales for the LCB be changed?

# LCB Retailing of Wine and Beer



- **The LCB has been a wine retailer since its creation.**
  - Until 1969, only in-state wine could be sold outside of state stores.
- **Today, wine sales in state and contract stores account for 7.1% of market share.**
  - 60% of the wine sold in Washington is sold in chain grocery stores. About 20% is sold in big-box stores. The remaining 20% is sold in beer and wine shops, neighborhood markets, convenience stores and state and contract liquor stores.
- **Sale of wine in state and contract stores account for over \$11 million in annual revenue to the state.**
- **To achieve greater price parity with the private sector, in October of 2005 the LCB raised the mark-up on all wines sold in state stores from 38% to 43%.**
  - Since the increased mark-up was implemented:
    - The LCB's market share (of liters sold) dropped to 7.1% from 8.2% in FY 2005; and
    - LCB wine sales dropped more than \$2 million (a nearly 6% decline) between July 2005 and May 2006

# LCB Retailing of Wine and Beer



- **During Focus Group interviews, many retailers expressed concern that the LCB has an unfair pricing advantage in the sale of wine and beer.**
  - Private retailers are subject to a variety of regulatory constraints, designed to further the state's goals of preventing the misuse of alcohol, promoting the efficient collection of taxes and providing for the orderly distribution of alcohol. (The state is also subject to constraints, different from private retailers.)
  - Retailers also see the state's ability to offer lower prices as inconsistent with the state's stated rationale of maintaining higher prices as a means of reducing abusive consumption.
  - Many retailer focus group participants felt the state should either have to "play by the same rules" as their private sector counterparts, or it should get out of the business of selling wine and beer altogether.
- **Not all private sector participants in the wine industry are unhappy with the LCB as a wine retailer. According to some wine producers, the LCB provides a crucial outlet for their product.**



# LCB Retailing of Wine and Beer



- **Constraints on Private Wine Sellers:**
  - Must procure product from licensed supplier or distributors.
  - Product is subject to a 10% minimum markup.
  - Cannot receive quantity discounts on products.
  - May not purchase product on credit.
  - Price posting and one-month holds on prices limit flexibility.
  - May not accept delivery of product at a central warehouse facility.
- **Constraints on State Stores:**
  - State is prohibited from advertising outside its stores.
  - Store hours are limited.
  - By internal policy, state wine prices are set for a three-month period.
  - The state may not sell non-alcoholic products in its stores.

# Discussion -- LCB Retail Sale of Wine and Beer



1. Does the LCB's approach to retailing wine and beer support the policy goals related to beer and wine?
2. Are there additional data that the LCB's approach to retailing wine and beer significantly impact industry businesses, consumers, society and/or the state? Are the impacts negative or positive?
3. If there are negative impacts, are they significant enough to warrant a recommendation for change?
4. Are there alternatives available that better meet the state's relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state? (See next slide)
5. What, if any, recommendations should the Task Force put forth?

# Discussion -- LCB Retail Sale of Wine and Beer



1. Does the LCB's approach to retailing wine and beer meet the policy goals related to beer and wine sale and distribution?
  - Prevent the misuse of alcohol ....
    - ....Does not support
  - Promote efficient collection of taxes ....
    - ....Does not support, but is not in conflict
  - Foster the orderly and responsible distribution of malt beverages and wine towards effective control of consumption ....
    - ....Does not support, but is not in conflict
  - But, there are other benefits
    - *Wine sales in state stores provide added convenience and customer service;*
    - *Wine sales in state stores produce additional revenue for the state; and*
    - *State stores have historically sold wine, and they provide an important marketing venue for small Washington wineries.*

This assessment is based on feedback received from industry participants and a review of relevant documents and literature. It is not intended to provide an exhaustive evaluation.

# Discussion -- LCB Retail Sale of Wine and Beer



2. Are there additional data that the LCB’s approach to retailing wine and beer significantly impact industry businesses, consumers, society and/or the state? Are the impacts negative or positive?

CONSUMER	BUSINESS	STATE	SOCIETY
<ul style="list-style-type: none"><li>• Potential for lower prices</li><li>• Convenience of one-stop shopping</li><li>• Increased selection</li></ul>	<ul style="list-style-type: none"><li>• Some retailers may be losing business</li><li>• Some producers may be getting product placement that would otherwise be unavailable</li></ul>	<ul style="list-style-type: none"><li>• Increased revenues</li><li>• Ability to better serve customers</li><li>• Supports development of the state’s wine industry</li></ul>	<ul style="list-style-type: none"><li>• Potential for small increase in access because of lower prices and more outlets</li></ul>

This impact assessment is based on feedback received from industry participants and a review of relevant documents and literature. It is not intended to provide an exhaustive assessment of all potential impacts. The impacts identified have not been thoroughly tested or evaluated.

OTHER DATA?

## Discussion -- LCB Retail Sale of Wine and Beer



3. If there are negative impacts, are they significant enough to warrant a recommendation for change?

# Discussion -- LCB Retail Sale of Wine and Beer



4. Are there alternatives available that better meet the state's relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state?

## Straw Options (to spark discussion!)

- A. Continue the current price strategy of maintaining a 43% markup and keep the LCB market share below 10%. ("No change")  
No impact, but continued frustration of private retailers)
- B. Require the LCB to sell no lower than the minimum price allowed of other retailers
  - + solves competition and policy strategy inequity issues, could provide additional revenue to the state, but
  - does not address the fact that the LCB still has other advantages associated with fewer constraints
- C. Rescind the LCB's authority to sell beer and wine in state stores
  - + eliminates competition for private retailers
  - reduces state sales revenue, reduces customer convenience, eliminates a primary distribution channel for some small wineries

# Discussion -- LCB Retail Sale of Wine and Beer



5. What, if any, recommendations should the Task Force put forth?

*Select from straw options, or any other recommendations from the Task Force*

- Continue the current price strategy of maintaining a 43% markup and keep the LCB market share below 10%. (“No change”)
- Require the LCB to sell no lower than the minimum price allowed of other retailers
- Rescind the LCB’s authority to sell beer and wine in state stores

# Lunch





# Sales and Distribution



- **Two strategies the state uses to prevent the misuse of alcohol are:**
  - Prevent access to *cheap* beer / wine by maintaining various pricing-related regulations designed to increase the price of beer and wine and to prevent alcohol from being used as a loss leader by retail licensees who sell to consumers.
  - Provide industry participants a “level playing field” that assures a particular product is sold at the same price to all retailers from the distributor / producer. According to the LCB, without a level playing field, there is greater incentive for the retailer with higher costs to go outside the system to buy the product cheaper.
- ✓ The general purpose and desired effect of the state’s pricing policies is to assure that beer / wine is reasonably available to consumers at reasonable prices, while making it more difficult to sell them at prices so low as to encourage excessive or abusive consumption.

# Sales and Distribution



- Underlying premise is that higher alcohol prices reduce consumption and abusive use of alcohol.
  - Current research studies generally show that increases in alcohol beverage prices are seen to reduce both alcohol sales and problems.
  - Difficult to quantify the impacts of all links in the causal chain:  
*policy tool → price → alcohol consumption patterns → public health outcomes*

# Price Posting and Price Holds Laws



- Issue Statement:

Price Posting and Price Hold requirements are considered by many licensees to be burdensome, complicated, and of limited value to business and the state. Others believe these requirements provide transparency in pricing; they are part of a larger system that serve to maintain higher beer and wine prices; and therefore serve to reduce abusive consumption and they assist the LCB to monitor and enforce compliance with other regulations.
- **Should Washington's requirement that manufacturers and distributors post their prices be retained, modified or eliminated?**
- **Should Washington's requirement that manufacturers and distributors hold their prices for one month be retained, modified or eliminated?**

# Price Posting and Price Holds Laws



- **RCW 66.28.180 requires that each month suppliers and distributors post the prices of beer and wine they sell.**
  - Suppliers: Post prices by the 25<sup>th</sup> day of the month. Price becomes effective on the first day of the second month following filing.
    - Example: Winery A posts their prices to the LCB on the 25<sup>th</sup> of January. Those prices go into effect on March 1, and cannot change during March.*
  - Distributors: Post prices by the 10<sup>th</sup> day of the month. Price becomes effective on the first day of the following month.
    - Example: Distributor B posts their prices to the LCB on the 10<sup>th</sup> of January. Those prices go into effect on February 1, and cannot change during February.*
- **All prices become effective at the same time (the first day of the month), and all prices must be held constant for the entire month.**
- **Prices are posted for each package type. Each licensee is given a password, allowing them to access the system to post or view prices of all products in the system. Licensees cannot view competitors' postings until the prices become effective.**

# Perspectives on Post and Hold Laws



## Benefits:

- Price posting provides an efficient mechanism for LCB enforcement.
- The system also provides transparency of prices.
- System provides a way for investigative staff to check whether suppliers and distributors are adhering to the 10% markup, and capture information on when the 10% markup has been violated.
- The post and hold requirements, together, make it more difficult for businesses to undercut each other's prices.
- MIW staff use it as part of their periodic spot checks and if prompted by a complaint from the public about a pricing violation.
- The “post” component of the system allows the LCB to readily observe the prices that distributors are charging retailers for beer and wine, enabling them to easily determine whether or not a supplier or distributor is complying with the quantity discount ban and mark up requirement.
- The “hold” component of the system prohibits distributors from changing prices frequently, ensuring all retailers pay the same prices for beer and wine during the “hold” period.

# Perspectives on Post and Hold Laws



## Drawbacks:

- Price posting is time-consuming and restrictive. The system and the regulations make it difficult to change mistakes and penalties for inadvertent violations (i.e. errors in data entry) are overly harsh.
- The post-and-hold rules make it difficult or impossible to take advantage of market conditions; they are too inflexible. Businesses are required to post too far ahead of time.
- Price posting is anticompetitive, antiquated and restricts business in being able to respond to market opportunities. It can take 60 to 90 days to respond to potential opportunities or to fix errors.
- Price posting keeps quality products out of Washington because suppliers and importers don't want to go through the hassle of doing business here.
- Businesses should be allowed to negotiate their prices with their customers like any other industry.
- Information available in the system is not generally used by industry to monitor competition.

# Discussion



1. Task Force perspectives on the underlying premise that “price matters” and that higher prices help control misuse.
2. Does the price post and hold system support state policy goals related to beer and wine sales and distribution?
3. Are there additional data that the post and hold requirements significantly impact industry businesses, consumers, society and/or the state? Are the impacts negative or positive?
4. If there are negative impacts, are they significant enough to warrant a recommendation for change?
5. Are there alternatives available that better meet the state’s relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state?
6. What, if any, recommendations should the Task Force put forth?

# Discussion



1. Task Force perspectives on the underlying premise that “price matters” and that higher prices help control misuse.



# Discussion



2. Does the price post and hold system support state policy goals related to beer and wine sales and distribution?
  - **Prevent the misuse of alcohol .... Yes**
    - ✓ Aids enforcement of quantity discount ban, minimum mark up requirements, and prohibitions on price changes for the specified period of time.
    - ✓ Results in higher and more stable distributors' prices for beer and wine. The higher costs of beer and wine to retailers will result in higher retail prices to consumers. Higher prices are believed to reduce consumption and misuse.
  - **Promote efficient collection of taxes ....Yes**
    - ✓ Provides an audit trail to verify the accuracy of taxes collected.
  - **Foster the orderly and responsible distribution of malt beverages and wine towards effective control of consumption .... Yes**
    - ✓ According to the LCB, the price posting and hold requirements act as a deterrent to businesses attempting to evade the regulations all distributors and manufacturers must abide by.
    - ✓ Hold provisions contribute to price stability and reduce the opportunity for price wars.

This assessment is based on feedback received from industry participants and a review of relevant documents and literature. It is not intended to provide an exhaustive evaluation.

# Discussion



3. Are there additional data that the post and hold requirements significantly impact industry businesses, consumers, society and/or the state? Are the impacts negative or positive?

CONSUMER	BUSINESS	STATE	SOCIETY
Higher prices	Burdensome, inflexible, lost market opportunities	Aids enforcement efforts	Possible reduction in abusive consumption

OTHER DATA?

This impact assessment is based on feedback received from industry participants and a review of relevant documents and literature. It is not intended to provide an exhaustive assessment of all potential impacts. The impacts identified have not been thoroughly tested or evaluated.

# Discussion



4. If there are negative impacts, are they significant enough to warrant a recommendation for change?

# Discussion



5. Are there alternatives available that better meet the state's relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state?

## Straw Options: (offered to spark discussion!)

### A. No change

No impacts, but may need to change if the court decision holds.

### B. Eliminate Price Posting, and shorten the Hold requirements

**Potential benefits:** Reduces the burden on businesses to post and reduces the time required to hold prices providing more flexibility, still provides some price stability.

**Potential drawbacks:** Eliminates an efficient state enforcement tool and may require more state resources to audit compliance. Lower business costs may lead to lower prices, and ultimately may increase abusive consumption.

### C. Eliminate Price Posting and Hold

**Potential benefits:** Reduces the burden on businesses and provides more market flexibility

**Potential drawbacks:** Eliminates an efficient state enforcement tool and may require more state resources for audit compliance. Lower business costs may lead to lower prices, and ultimately may increase abusive consumption.

# Discussion



6. What, if any, recommendations should the Task Force put forth?

*Select from straw options, or any other recommendations from the Task Force*

- No change
- Eliminate Price Posting, and shorten the Hold requirements
- Eliminate Price Posting and Hold

# Wrap-up



- **What we accomplished today**
- **Next meeting's purpose and "homework" assignments**
  - Date/Time: Thursday September 14, 10a – 3p. LCB Headquarters (room to be determined).
  - Purpose: to discuss Category 3 -- Relationship Among the Tiers, Mandatory Distribution, and Impacts of 2SSB 6823
  - Homework:
    - Review information you receive, including summary of today's meeting and next meeting materials.
    - Send general questions or comments to Sterling Associates by Friday 9/8 if it needs to be included for 9/14 meeting. (Public too.)
- **Questions?**

# Adjourn



- Thank you!
- See you September 14...



## Appendix - Info



- **Written comments from stakeholders and/or Task Force meeting audience are welcome (contact information must be included) and can be submitted via:**
  - LCB web site: [WWW.LIQ.WA.GOV](http://WWW.LIQ.WA.GOV) (link to Task Force)
  - Email to Sterling Associates (please address to both)
    - Jill Satran – [jills@sterling-llp.com](mailto:jills@sterling-llp.com)
    - Kim Rau – [kimr@sterling-llp.com](mailto:kimr@sterling-llp.com)
- **Written comments received by Fridays before a Task Force meeting will be included in a consolidated document to the Task Force members. Written comments will be summarized and presented at each Task Force meeting. (They will not necessarily be individually addressed via email or by the Task Force.)**
  - Written comments submitted to the Task Force will be also be available for public viewing on the LCB's web site.